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Site Evaluation Committee

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NH Coastal & Ocean Wind Energy Meeting

DES Pease Tradeport Office
Newington, New Hampshire

Presented by:

Timothy W. Drew

Administrator for Public Information and Permitting
NH Department of Environmental Services

October 12, 2005

Title XII

Public Safety and Welfare

Chapter 162-H

“Energy Facility Evaluation, Siting,
Construction and Operation”

<http://www.gencourt.state.nh.us/rsa/html/indexes/162-H.html>

SEC (*Draft*) Administrative Rules

<http://nhsec.state.nh.us/site100.htm>

SEC Web Site

<http://nhsec.state.nh.us>

Brief History

- 1974 – Aristotle Onassis proposed an oil refinery in coastal NH
- Legislature enacted siting laws to address issues and impacts from such proposals
 - Hydro-Quebec Transmission System (mid-1980s)
 - Seabrook nuclear power plant (late-1970s)
- 1989 – Legislative committee to study siting laws, RSA 162-F (bulk power facilities) and 162-H (energy facilities)

Brief History (cont'd)

- Problems included lack of threshold for SEC jurisdiction, opportunities for meaningful public involvement, lack of defined timeline for decision making, unpredictable processing procedure.
- August 30, 1990 – *Report of the Energy Facility Siting, Licensing & Operation Study Committee of the NH General Court*
- After 1991, RSA 162-F (nuclear facility decommissioning fund only) and RSA 162-H (bulk power and energy facilities)

Declaration of Purpose

(RSA 162-H:1)

I. (Excerpt) The legislature recognizes that the selection of sites for energy facilities will have a significant impact upon the welfare of the population, the economic growth of the state and the environment of the state.

Declaration of Purpose

(cont'd)

The legislature, accordingly, finds that the public interest requires that it is essential to maintain a balance between the environment and the possible need for new energy facilities in New Hampshire; that undue delay in construction of any needed facilities be avoided; and that the state ensure that the construction and operation of energy facilities is treated as a significant aspect of land-use planning in which all environmental, economic and technical issues are resolved in an integrated fashion.

Definitions

(RSA 162-H:2, II)

- “Bulk power supply facilities” –
 - Electric generating station equipment and associated facilities designed for, or capable of, operation at any capacity of 30 megawatts or more...
 - An electric transmission line of design rating of 100 kilovolts or more ... associated with a generating facility over a route not already occupied by a transmission line or lines.
 - An electric transmission line of a design rating in excess of 100 kilovolts that is in excess of 10 miles in length, over a route not already occupied by a transmission line...

Nuclear-Fueled Bulk Power Facility



Fossil-Fueled Bulk Power Facilities



Electric Transmission Line / Sub-Station



Definitions

(RSA 162-H:2, VII)

- “Energy facility”
 - ...Any industrial structure ... that may be used substantially to extract, produce, manufacture, transport or refine sources of energy, including ancillary facilities as may be used or useful in transporting, storing or otherwise providing for the raw materials or products of any such industrial structure.
 - Includes facilities that store on site a quantity [of fuel] to provide 7 days of continuous operation at a rate equivalent to the energy requirements of a 30 megawatt electric generating station and its associated facilities



Natural Gas / Oil Pipeline

Fuel Storage Tank Farm



Certified Electric Competition

[RSA 162-H:5, IV(b)]

After the date when competition has been certified to exist, pursuant to RSA 38:36, in that portion of the state or in more than half of the state as a whole, all proposed electric generating facilities of capacity greater than 30 megawatts shall be considered energy facilities, and shall not be considered bulk power supply facilities.

Committee Membership

(RSA 162-H:3)

- Environmental Services (3 members)
- Public Utilities Commission (4 members)
- Resources and Economic Development (3 members)
- Health and Human Services (1 member)
- Fish & Game Department (1 member)
- Office of Energy & Planning (1 member)
- Transportation (1 member)

Counsel for the Public

(RSA 162-H:9)

- When application is filed with SEC, NH Department of Justice appoints an Assistant Attorney General as Counsel for the Public
- The counsel shall represent the public in seeking to protect the quality of the environment and in seeking to assure an adequate supply of energy
- Consolidate public issues for efficiency
- Counsel provided at no charge to the public

Timeframes

(RSA 162-H:6)

- Application filed (**30 days** to review)
- SEC decision to accept*/reject/exempt (within **60 days** of filing)
- ***If accepted, START DATE FOR ALL SUCCEEDING STEPS**
- If rejected, **10 days** to cure defects and resubmit
- SEC public informational meeting within **30 days** in county(ies)
- State agencies report progress (draft permit conditions, data requests, *etc.*) within **5 months**
- Adversarial hearing(s) conducted by SEC
- All agency final decisions submitted to SEC within **8 months**
- SEC decision on “Energy facility” within **9 months**
- SEC decision on “Bulk power supply facilities” in **10 months**
 - (PUC has 1 month for review of system capacity/stability/reliability)

Exemption from SEC Process

(RSA 162-H:4, IV)

IV. In cases where the committee determines that other existing statutes provide adequate protection of the objectives of RSA 162-H:1, the committee may, within 60 days of filing of the application, exempt the applicant from the approval and certificate provisions of this chapter, provided that the following requirements are met:

(a) Existing state statutes, state agency rules or municipal ordinances provide adequate protection of the objectives of RSA 162-H:1;

(b) A review of the application reveals that consideration of the application by only selected agencies represented on the committee is required and that the objectives of RSA 162-H:1 can be met by those agencies without exercising the provisions of RSA 162-H;

(c) Response to the application from the general public indicates that the objectives of RSA 162-H:1 are met through the individual review processes of the participating agencies; and

(d) All environmental impacts or effects are adequately regulated by other federal, state or local statutes, rules or ordinances.

Decision & Findings

(RSA 162-H:16)

- To issue a ***Certificate of Site and Facility***, the SEC must find that:
- The applicant has adequate financial, technical, and managerial capability for the project
- The project will not unduly interfere with the orderly development of the region
- The project will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and public health and safety
- Its operation will be consistent with State energy policy (RSA 378:37)

Certificate of Site and Facility

(RSA 162-H:16)

- If project is approved, SEC issues a ***Certificate of Site and Facility*** with findings, terms, conditions (public input), and appendices (State agency deliverables)
- If denied, applicant has right to “cure the defects” and re-file. SEC process continues...
- An SEC decision is reviewable only by the NH Supreme Court, pursuant to the RSA Chapter 541 “unlawful, unjust or unreasonable” standard

New Hampshire Energy Plan

2002 Edition

- Section 1.3.2.3: “...the state needs to address how to approach projects that are not within the SEC’s jurisdiction, including smaller projects, renewable generation, co-generation, and distributed generation.”
- As of October 10, 2005, the SEC process has not yet been modified for these types of projects (Source: Jack Ruderman, NHOEP)

Coastal Wind Power Energy Facility



Petition the SEC to “opt in”

(RSA 162-H:2, XI)

X-a. "Petition" means a request to the committee to rule on the applicability of this chapter to a particular proposed bulk power supply facility or energy facility.

XI. "Petitioner" means a person filing a petition meeting any of the following conditions:

(a) A petition endorsed by 100 or more registered voters in the host community or host communities.

(b) A petition endorsed by 100 or more registered voters from abutting communities.

(c) A petition endorsed by the board of selectmen of the host community or 2 or more boards of selectmen of abutting communities.

(d) A petition filed by the potential applicant.

Summary

RSA 162-H was enacted and modified over the last three decades to provide a comprehensive, integrated, and timely evaluation of major energy projects to ensure that the health and welfare, economy, energy supply, and environment of New Hampshire citizens are protected and preserved.